

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2288

Introduced by Assembly Member Torrico

February 21, 2008

An act to amend Sections 13195, 13195.5, 13196.5, 13197, 13197.5, and 13198 of, and to add ~~Section 13197.1~~ *Sections 13197.1 and 13197.6* to, the Health and Safety Code, relating to automatic fire ~~extinguisher~~ *extinguishing* systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 2288, as amended, Torrico. Automatic fire ~~extinguisher~~ *extinguishing* systems: certificate of registration.

(1) Existing law requires the State Fire Marshal to adopt and administer the regulations and building standards he or she deems necessary in order to establish and control a program for servicing, testing, and maintaining all automatic fire extinguishing systems, including, but not limited to, fire sprinkler systems. These regulations and building standards are required to consider the requirements of the applicable standards of the National Fire Protection Association and specified voluntary standards published by the State Fire Marshal.

This bill would require the State Fire Marshal to expand these regulations and building standards to include the installation of automatic fire extinguishing systems, and would no longer require consideration of the voluntary standards.

(2) Existing law prohibits any person from engaging in the business of servicing or testing automatic fire extinguishing systems without a license issued by the State Fire Marshal, except as specified. Existing law requires the State Fire Marshal to adopt regulations to establish and

maintain that license, including bases for denial or revocation, a schedule of fees for administration and enforcement, and the period for and renewal of licensure. Existing law makes any violation of these provisions or any regulation or building standard of the State Fire Marshal a misdemeanor.

This bill would prohibit any person from ~~engaging in the business of installing or modifying~~ fire sprinklers ~~or~~, a fire sprinkler system, a wet standpipe system, or an engineered fixed automatic fire extinguishing system without a certificate of registration issued by the State Fire Marshal, except as specified. The bill would require the State Fire Marshal to adopt regulations to establish and maintain that certificate of registration, including qualifications, continuing education, bases for denial or revocation, a schedule of fees for administration and enforcement, and the period for, and renewal of, the certificate of registration.

Because a violation of these requirements would be a misdemeanor, the bill would impose a state-mandated local program by changing the definition of a crime.

(3) Existing law provides that specialty contractors, as defined, and otherwise required to be licensed by the Contractors' State License Board, are exempt from the licensing requirements of the State Fire Marshal described in (2) above.

This bill would provide that a specialty contractor engaged in the servicing, maintenance, and testing of fire extinguishing systems shall be subject to a monetary penalty, or suspension, denial, or revocation of his or her respective license upon action by the Contractors' State License Board, or upon written notice by the Office of the State Fire Marshal to the Contractors' State License Board. The bill would authorize the Office of the State Fire Marshal to retain monetary penalties in the actions it initiates, and would provide for deposit of these penalties into the State Fire Marshal Licensing and Certification Fund.

(4) State law authorized the State Fire Marshal, until January 1, 2008, to permit a person licensed to engage in the business of servicing or testing automatic fire extinguishing systems, as described in (2) above, to pay a monetary penalty to the State Fire Marshal in lieu of an actual suspension of his or her license.

This bill would restore that authority to the State Fire Marshal, and would expand it to permit the payment of a monetary penalty by persons holding a certificate of registration, as described in (2) above. The bill

would provide for any penalties received to be deposited into the State Fire Marshal Licensing and Certification Fund.

(3)

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13195 of the Health and Safety Code is
2 amended to read:

3 13195. (a) The State Fire Marshal shall adopt and administer
4 the regulations and building standards he or she deems necessary
5 in order to:

6 (1) Establish and control a program for installing, servicing,
7 testing, and maintaining all automatic fire extinguishing systems,
8 including but not limited to, fire sprinkler systems, engineered and
9 preengineered fixed extinguishing systems, standpipe systems,
10 and water flow alarm devices.

11 (2) Establish minimum frequencies of service, inspection, and
12 testing for the various types of automatic fire extinguishing
13 systems.

14 (b) All tests of automatic sprinkler systems shall include a test
15 of all supervisory signaling equipment that is provided to determine
16 whether a condition exists that will impair the satisfactory operation
17 of the system.

18 (c) The regulations and building standards established by the
19 State Fire Marshal for installing, servicing, testing, and maintaining
20 automatic fire extinguishing systems shall consider the
21 requirements of the applicable standards of the National Fire
22 Protection Association.

23 SEC. 2. Section 13195.5 of the Health and Safety Code is
24 amended to read:

25 13195.5. Every automatic fire extinguishing system, including,
26 but not limited to, fire sprinkler systems, engineered and
27 preengineered fixed extinguishing systems, standpipe systems,

1 and alarm and supervisory equipment attached to those systems
2 shall be installed, serviced, tested, and maintained in accordance
3 with the regulations and building standards adopted by the State
4 Fire Marshal pursuant to Section 13195.

5 SEC. 3. Section 13196.5 of the Health and Safety Code is
6 amended to read:

7 13196.5. (a) Except as provided in subdivisions (b), (c), and
8 (d), no person shall engage in the business of servicing or testing
9 automatic fire extinguishing systems without a license issued by
10 the State Fire Marshal pursuant to this chapter. No person shall
11 ~~engage in the business of installing~~ *install or modify* fire sprinklers
12 ~~or, a fire sprinkler system, a wet standpipe system, or an engineered~~
13 *fixed automatic fire extinguishing system* without a certificate of
14 registration issued by the State Fire Marshal.

15 (b) Persons who engage in the business of installing, servicing
16 or testing fire alarm devices, water flow alarm devices, or the
17 supervisory signaling components of automatic fire extinguishing
18 systems, *and persons who install dry standpipe systems or*
19 *preengineered fixed fire extinguishing systems*, shall not be subject
20 to the licensing or certification requirements contained in this
21 chapter.

22 (c) Industrial systems may be serviced or tested by, or under
23 the supervision of, an engineer employed by a private entity who
24 shall not be subject to the licensing requirements contained in this
25 chapter unless he or she performs the service or testing for a fee
26 outside of the employment relationship.

27 (d) Any specialty contractor, as defined in subdivision (b) of
28 Section 7058 of the Business and Professions Code, shall not be
29 subject to the licensing requirements for the servicing,
30 *maintenance*, and testing of automatic fire extinguishing systems
31 contained in this chapter.

32 (e) *Notwithstanding subdivision (d), a specialty contractor*
33 *engaged in the servicing, maintenance, and testing of fire*
34 *extinguishing systems shall be subject to a monetary penalty, or*
35 *suspension, denial, or revocation of his or her respective license*
36 *upon action by the Contractors' State License Board, or upon*
37 *written notice by the Office of the State Fire Marshal to the*
38 *Contractors' State License Board. Monetary penalties shall be*
39 *retained by the state agency initiating the action. If the state agency*
40 *initiating the action is the Office of the State Fire Marshal, and*

1 *the action results in the levy of a monetary penalty, the moneys*
 2 *shall be deposited into the State Fire Marshal Licensing and*
 3 *Certification Fund.*

4 SEC. 4. Section 13197 of the Health and Safety Code is
 5 amended to read:

6 13197. The State Fire Marshal shall adopt regulations to
 7 establish and maintain the licensing and certificate of registration
 8 programs required by this chapter. To the extent the State Fire
 9 Marshal determines is necessary to carry out the provisions of this
 10 chapter, the regulations may provide for, but need not be limited
 11 to, requirements that the applicant for a license pass an examination
 12 or possess the qualifications necessary to perform the prescribed
 13 installation, service, maintenance, and testing, or both.

14 SEC. 5. Section 13197.1 is added to the Health and Safety
 15 Code, to read:

16 13197.1. (a) A certificate of registration may be issued only
 17 to an applicant who meets all of the following conditions:

18 (1) Passes a written examination given by the State Fire Marshal.

19 (2) Completes any state or federally approved fire sprinkler
 20 fitter, *or plumbing and pipefitters*, apprenticeship program
 21 *recognized by the State Fire Marshal.*

22 (3) Complies with all other provisions of this chapter.

23 (b) Notwithstanding subdivision (a) of Section 13196.5,
 24 commencing July 1, 2009, a person who does not possess a valid
 25 certificate of registration may install fire sprinklers if he or she
 26 *can provide evidence to the State Fire Marshal that he or she is*
 27 *currently enrolled and attending any state or federally approved*
 28 *fire sprinkler fitter, or plumbing and pipefitters, apprenticeship*
 29 *program, and he or she is recognized by the State Fire Marshal.*
 30 *Upon application and providing adequate evidence of that*
 31 *enrollment as determined by the State Fire Marshal, the State Fire*
 32 *Marshal shall issue that person an identification card, renewable*
 33 *annually, and required until the holder successfully completes all*
 34 *requirements and is issued a certificate of registration. The State*
 35 *Fire Marshal may collect a fee to cover its actual cost to issue the*
 36 *identification card. The cardholder shall be directly supervised*
 37 *by a person with a valid certificate of registration.*

38 (c) ~~An~~ *Notwithstanding subdivision (a), an* applicant for a
 39 certificate of registration who can provide evidence of at least
 40 10,000 hours of accumulative experience as a fire sprinkler fitter

1 in any state on or after July 1, 1999, or who has successfully
2 completed any state or federally approved fire sprinkler fitter
3 apprenticeship program, ~~or both~~ *recognized by the State Fire*
4 *Marshal, or both, prior to January 1, 2009, and who is in*
5 *compliance with all other provisions of this chapter, shall be issued*
6 *a certificate of registration without having to take an examination*
7 *given by the State Fire Marshal.*

8 *(d) Notwithstanding subdivision (a), any person validly licensed*
9 *as a fire protection contractor (C-16), as set forth in Section 832.16*
10 *of Title 16 of the California Code of Regulations, may apply to*
11 *take a written examination given by the State Fire Marshal without*
12 *first completing a recognized apprenticeship program. Upon*
13 *passing the State Fire Marshal written examination, the holder of*
14 *a valid C-16 contractor's license shall be issued a certificate of*
15 *registration pursuant to this section.*

16 *(e) Notwithstanding subdivision (a), any applicant for a*
17 *certificate of registration who can provide evidence of at least*
18 *10,000 hours of accumulative experience as a plumber or pipefitter*
19 *in any state on or after July 1, 1999, or who has successfully*
20 *completed any state or federally approved plumbing and pipefitter*
21 *apprenticeship program recognized by the State Fire Marshal, or*
22 *both, prior to January 1, 2009, and who is in compliance with all*
23 *other provisions of this chapter, may apply for and take the written*
24 *examination for a certificate of registration. Upon passing the*
25 *written examination, a certificate of registration shall be issued*
26 *by the State Fire Marshal.*

27 ~~(d)~~

28 *(f) All persons holding a certificate of registration for the*
29 *installation of fire sprinklers pursuant to this chapter shall complete*
30 *a minimum of eight hours annually of state or federally approved*
31 *continuing education for fire sprinkler fitters as preapproved by*
32 *the State Fire Marshal. Evidence of completion shall be submitted*
33 *to the State Fire Marshal with the application for renewal of the*
34 *certificate of registration. Up to eight hours of continuing education*
35 *earned in excess of the eight hours required during the year of the*
36 *current certificate of registration may be carried over into the*
37 *succeeding year. All applicants for renewal of a certificate of*
38 *registration shall complete the continuing education requirement*
39 *as a condition to establish eligibility for renewal. The continuing*

1 education requirement does not apply until the conclusion of the
2 first full year after initial issuance of the certificate of registration.

3 SEC. 6. Section 13197.5 of the Health and Safety Code is
4 amended to read:

5 13197.5. A license or certificate of registration may be denied
6 or revoked by the State Fire Marshal for either of the following
7 reasons:

8 (a) The applicant made a material misrepresentation or false
9 statement in the application.

10 (b) Violation of any provision of this chapter or any regulation
11 adopted by the State Fire Marshal pursuant to this chapter.

12 SEC. 7. Section 13197.6 is added to the Health and Safety
13 Code, to read:

14 13197.6. (a) (1) *If the State Fire Marshal or his or her*
15 *designee determines that the public interest and public welfare*
16 *will be adequately served by permitting a person licensed or*
17 *holding a certificate of registration pursuant to this chapter to pay*
18 *a monetary penalty to the State Fire Marshal in lieu of an actual*
19 *suspension of his or her license or certificate of registration, the*
20 *State Fire Marshal or his or her designee may, on the petition of*
21 *the licensee or holder of the certificate of registration, stay the*
22 *execution of all or part of the suspension if all of the following*
23 *conditions are met:*

24 (A) *The violation that is the cause for the suspension did not*
25 *pose, or have the potential to pose, a significant threat or risk of*
26 *harm to the public.*

27 (B) *The licensee or holder of a certificate of registration pays*
28 *a monetary penalty.*

29 (C) *The licensee or holder of a certificate of registration does*
30 *not incur any other cause for disciplinary action within a period*
31 *of time specified by the State Fire Marshal or his or her designee.*

32 (2) *In making the determination, the State Fire Marshal or his*
33 *or her designee shall consider the seriousness of the violation, the*
34 *violator's record of compliance with the law, the impact of the*
35 *determination on the licensee or holder of a certificate of*
36 *registration, the licensee's employees or customers, and other*
37 *relevant factors.*

38 (b) *The State Fire Marshal or his or her designee may exercise*
39 *the discretion granted under this section either with respect to a*
40 *suspension ordered by a decision after a contested hearing on an*

1 accusation against the licensee or holder of a certificate of
2 registration, or by stipulation with the licensee or holder of a
3 certificate of registration after the filing of an accusation, but prior
4 to the rendering of a decision based upon the accusation. In either
5 case, the terms and conditions of the disciplinary action against
6 the licensee or holder of a certificate of registration shall be made
7 part of a formal decision of the State Fire Marshal or his or her
8 designee.

9 (c) If a licensee or holder of a certificate of registration fails to
10 pay the monetary penalty in accordance with the terms and
11 conditions of the decision of the State Fire Marshal or his or her
12 designee, the State Fire Marshal or his or her designee may,
13 without a hearing, order the immediate execution of all or any
14 part of the stayed suspension in which event the licensee or holder
15 of a certificate of registration shall not be entitled to any repayment
16 nor credit, prorated or otherwise, for money paid to the State Fire
17 Marshal under the terms of the decision.

18 (d) The amount of the monetary penalty payable under this
19 section shall not exceed two hundred fifty dollars (\$250) for each
20 day of suspension stayed or a total of ten thousand dollars
21 (\$10,000) per decision regardless of the number of days of
22 suspension stayed under the decision.

23 (e) Any monetary penalty received pursuant to this section shall
24 be deposited in the State Fire Marshal Licensing and Certification
25 Fund.

26 ~~SEC. 7.~~

27 SEC. 8. Section 13198 of the Health and Safety Code is
28 amended to read:

29 13198. (a) The State Fire Marshal shall adopt a schedule of
30 fees to be paid by licensees or holders of certificates of registration
31 in an amount that is necessary to cover the cost of administering
32 and enforcing the provisions of this chapter by the State Fire
33 Marshal. Any city or county fire department, or any district
34 providing fire protection services may adopt a schedule of fees as
35 required to cover the cost of enforcing the provisions of this
36 chapter.

37 (b) The annual and renewal license shall be valid for the period
38 from January 1, to December 31. The annual license fee renewal
39 period shall begin on September 1 and end on November 1
40 preceding the license year for which the renewal is requested. A

1 penalty of 50 percent of the license fee shall be assessed in all
2 cases where the renewal fees are not paid on or before November
3 1, preceding the license year for which renewal is requested.

4 (c) The annual and renewal certificate of registration shall be
5 valid for the period from July 1 to June 30. The annual certificate
6 of registration fee renewal period shall begin on March 1 and end
7 on May 1 preceding the year for which the renewal is requested.

8 A penalty of 50 percent of the certificate of registration fee shall
9 be assessed in all cases where the renewal fees are not paid on or
10 before May 1, preceding the year for which renewal is requested.

11 (d) All annual and renewal fees collected pursuant to this section
12 shall be deposited in the State Fire ~~marshal~~ *Marshal* Licensing and
13 Certification Fund, and shall be available upon appropriation by
14 the Legislature only for the purposes specified in Section 13195.

15 ~~SEC. 8.~~

16 *SEC. 9.* No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.